

## Internal Revenue Service

## Department of the Treasury

District  
Director

▷ APR 24 1996

## CERTIFIED MAIL

Dear Sir

We have considered your application for recognition of exemption under Internal Revenue Code (IRC) section 501(c)(4) as a "Homeowners Association".

The information submitted shows that you were incorporated under the laws of the state of [REDACTED] on [REDACTED].

The purposes of the organization as set forth in the Articles of Incorporation are; to maintain private open spaces and stormwater management areas as set forth under a declaration by [REDACTED].

Article [REDACTED] of your Bylaws states; The Association is a non-profit organization which has been formed by the developer of [REDACTED]; 1) to own the common areas; 2) to maintain the common areas, streets and walkways, of the development and also, 3) to enforce the restrictive covenants to preserve the appearance of the development. Article [REDACTED] of your Bylaws states; "The Association shall operate for the benefit of all members of the development and in addition to maintain services, such as, grass cutting and snow removal, it may also establish committees to provide social and athletic activities for the membership.

Article [REDACTED] paragraph [REDACTED] of the Articles of Incorporation states; "Members shall be all owners of subdivided lots excepting the declarant and excepting any other person or entity which acquires title to all or a substantial portion of the subdivision for the purpose of developing thereon a residential community.

Since forming a portion of the property comprising the development was sold to the [REDACTED] Department of Transportation for purposes of widening a state road bordering the property. Subsequent information submitted in support of your request for recognition of exemption indicated the organization still maintains this portion of the development.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]				
Date	12/26/94	3/4/96	4-19-96				

[REDACTED]

Your income is derived from an annual assessment imposed on each lot owner. The expenses of the organization are incurred for snow removal, lawn care, social events, insurance, bank fees, contributions, postage, supplies, hall rental (annual meeting), and legal fees.

Section 501(c)(4) of the Code provides for the recognition of civic leagues, social welfare organizations, or other organizations, not organized for profit, but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Federal Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated for the purpose of bringing about civic betterment and social improvements.

Revenue Ruling 72-102, published in Cumulative Bulletin 1972-1, on page 149, states that a nonprofit organization formed to preserve the appearance of a housing development and to maintain streets, sidewalks and common areas for use of residents is exempt under 501(c)(4). Membership is required of all owners of real property in the development and assessments are levied to support the organizations activities. It was held that by maintaining the property normally maintained by a municipal government, the organization served the common good and general welfare of the community.

Revenue Ruling 74-99, published in Cumulative Bulletin 1974-1, on page 131, modified Revenue Ruling 72-102 by stating guidelines under which a homeowners' association could qualify for exemption under section 501(c)(4) of the Code. One guideline is that a homeowners' association must serve a community which bears a reasonable recognizable relationship to an area identified as governmental in order to qualify under section 501(c)(4).

This ruling reads in part: "A community within the meaning of section 501(c)(4) and the regulations is not simply an aggregation of homeowners bound together in a structural unit formed as an integral part of a plan for the development of a real estate division and the sale of homes therein. Although an exact delineation of the boundaries of a "community" contemplated by section 501(c)(4) is not possible, the term as used in that section has traditionally been construed as having reference to a geographical unit bearing a reasonable recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof."

[REDACTED]

The area served by your activities is a private residential housing development. Such an area does not constitute a "community" within the meaning of 501(c)(4) and the underlying regulations. The maintenance of the state owned land adjacent to the development is not required nor is it a purpose for which the organization was formed, and is not a substantial part of your overall activities.

Revenue Ruling 75-286, published in Cumulative Bulletin 1975-2, on page 210 states that a nonprofit organization with membership limited to the residents and business operators within a city block and formed to preserve and beautify the public areas in the block, thereby benefiting the community as a whole as well as enhancing the members property rights, may qualify for exemption under section 501(c)(4).

The organization cited in Revenue Ruling 75-286 was organized and operated exclusively to improve all public facilities within the block. None of the organization's activities were directed to the benefit of the owners of buildings on the block.

Based on the information submitted, we have determined that your organization is operating in essentially the same manner as the organization described in Revenue Ruling 74-99 and therefore we hold that you are primarily organized and operated to provide services for the personal benefit of your members and not primarily for promoting in some way the common good and general welfare of the community. Any benefits to the community are incidental and not sufficient to meet the requirement of the regulations that the organization be operated primarily for the common good and general welfare of the people of the community. One of the purposes of Revenue Ruling 74-99 is to preclude recognition of exemption of homeowners' associations that serve private rather than public interests. Your services do not benefit a community because they are limited to the members of your housing development.

Therefore, we have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(4) of the Internal Revenue Code. In accordance with this determination, you are required to file Federal income tax returns on Form 1120.

[REDACTED]

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination on this matter.

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

Your attention is called to section 528 of the Internal Revenue Code which was added by the Tax Reform Act of 1976. This section provides that, in certain circumstances, a non-exempt homeowners' association may elect not to be taxed on its "exempt function income" which includes membership dues, fees or assessments from owners of real property. The election is made by filing Form 1120H. If you determine that your organization qualifies under section 528, you may find it beneficial to make this election.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

[REDACTED]  
[REDACTED]  
District Director

Enclosure: Publication 892